

REMARKS

Claims 10, 12, 13, 14, 15, 17, and 20 have been canceled. Claims 19, 21 - 26, and 28 have been amended. New claim 30 depending ultimately from claim 28 has been added. A new independent claim 31 has been added. Claims 16, 18, 19, and 21 - 31 are currently pending in the present application.

In the Office Action, claims 12 - 15 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Additionally, in the Office Action, claims 10, 13, 14, and 17 are rejected under 35 U.S.C. §102(b) as being anticipated by US Patent No. 2,750,901 to McClellan. Furthermore, in the Office Action, claims 10, 13, 14, and 17 are rejected under 35 U.S.C. §102(b) as being anticipated by US Patent No. 4,685,402 to Nelson et al. Moreover, in the Office Action, 12 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 4,685,402 to Nelson et al in view of US Patent No. 4,667,840 to Lindsey. Also, in the Office Action, 12 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 2,750,901 to McClellan in view of US Patent No. 4,667,840 to Lindsey. Additionally, in the Office Action, claim 19 is rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 961,022 to Teller et al in view of US Patent No. 2,596,706 to McClure. Furthermore, claims 28 and 29 are rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 2,596,706 to McClure.

The Rejection Of Claims 12 - 15 under 35 U.S.C. §112, Second Paragraph

With respect to the rejection of claims 12 – 15 under 35 U.S.C. §112, second paragraph, it is noted that claims 12 - 15 have now been canceled. Thus, it is submitted that the rejection of claims 12 - 15 under 35 U.S.C. §112, second paragraph, is now moot.

The Rejections Of Claims 10, 12, 13, 14, 15, and 17 under 35 U.S.C. §102(b) and 35 U.S.C. §103(a)

With respect to the rejections of claims 10, 12, 13, 14, 15, and 17 as anticipated by, or unpatentable over, the prior art, it is noted that claims 10, 12, 13, 14, 15, and 17 have now been canceled. Thus, it is submitted that the rejections of claims 10, 12, 13, 14, 15, and 17 under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) are now moot.

The Rejection Of Claim 19 under 35 U.S.C. §103(a)

With respect to the rejection of claim 19, it is noted that claim 20 had been indicated as allowable if properly rewritten and claim 19 has now been amended to incorporate the subject matter of now-canceled claim 20. Thus, it is submitted that the rejection of claim 19 under 35 U.S.C. §103(a) is now moot.

The Rejection Of Claims 28 and 29 under 35 U.S.C. §103(a) As Unpatentable Over US Patent No. 2,596,706 to McClure

An exemplary embodiment of the present invention, as recited by independent claim 28 of the present application as currently amended, is directed to a refrigerating appliance comprising a cooling compartment for retaining therein items that are to be cooled, the cooling compartment including a back wall, an access opening, and a side wall, the side wall having an inner surface, an outer surface, and a cap portion. The cap portion extends between and is connected to each of the inner and outer surfaces of the side wall, the cap portion forming a termination of the side wall as viewed in a depth direction from back wall toward the access opening. Also, the inner surface, the outer surface, and the cap portion together delimit a volume therebetween in which insulating material is disposed and the outer surface and the cap portion together forming a border delimit the access opening. The side wall is located at a side of the cooling compartment as viewed in a lateral direction perpendicular to the depth direction from

back wall toward the access opening. The refrigerating appliance recited in claim 28 as currently amended also includes an indicia bearing portion and a door. The indicia bearing portion is located outwardly of the cap portion of the side wall of the cooling compartment as viewed in the depth direction from back wall toward the access opening and the indicia bearing portion displays thereon an indicia. The door is movable between open and shut positions for respectively permitting access via, and closing off, the access opening of the cooling compartment and the door has a lateral extent in the lateral direction such that the door overlies the indicia on the indicia bearing portion in the closed position of the door. Also, the door has an inside wall and an outside wall, the inside wall overlying the border of the access opening formed by the outer surface and the cap portion of the cooling compartment when the door is in the shut position. The cap portion extends beyond the inside wall of the door in the depth direction from the back wall toward the access opening when the door is in a shut position closing off the access opening.

McClure '706 discloses a refrigerator having a door 30 that can shut off an access opening into a compartment 13 in which cold items are stored. The door 30, in a shut position, overlies a top portion of a structure bordering the access opening.

The Office Action notes that McClure '706 teaches a refrigerator but does not teach "an indicia bearing portion" on an outwardly extending cap portion. However, according to the Office Action, adhesive backed stickers could be affixed to the cap portion of the refrigerator and at least a portion of the cap portion would inherently extend outwardly from the door plane.

Claim 28 of the present application has now been amended to clarify the structure of the cap portion and it is submitted that claim 28 of the present application as currently amended now clearly patentably defines over McClure '706. For example, the McClure '706 refrigerator does not include, in the language of claim 28 of the present application as currently amended, a "cap portion [that] extends beyond the inside wall of the door in the depth direction from the back wall toward the access opening when the door is in a shut position." Instead, the "cap portion" of the door 30 of McClure '706 - i.e., the top portion of the structure bordering the access opening - does not extend

outwardly beyond the access opening of the refrigerator 10 of McClure '706. Accordingly, even if indicia were to be affixed to the "cap portion" of the door 30 of McClure '706, the McClure '706 refrigerator would still not comprise all of the features of claim 28 as currently amended. Favorable consideration of claim 28, and claims 29 and 30 depending therefrom, is therefore respectfully solicited.

New Claim 31

New independent claim 31 is directed to a refrigerating appliance having an uninsulated cap portion. Favorable consideration of this new claim is respectfully solicited.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of claims 16, 18, 19, and 21 - 31 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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